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Remarks

Claims 1-18 were pending in the application. Claim 16 has been canceled. Therefore, claims 1-15 and 17-18 remain pending in the application.

The drawings were objected to under 37 C.F.R. 1.83(a) for failing to show every feature of the invention as recited in the claims.

The disclosure was objected to because of an informality.

Claims 9 and 16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the invention at the time the application was filed.

Claims 1, 2, 5-7, 10, 11, and 17 are provisionally rejected under the Judicially created doctrine of double patenting as being unpatentable over claims 1, 2, 8, 9, 13, 15, and 16, respectively of copending United States Patent Application Serial No. 10/673,993.

Claims 1-3, 5-7, 9-14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication No. 2003/0198478 of Vrazel et al. published on October 23, 2003.

Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vrazel et al. in view of the Chi et al. article entitled "Transmission Performance of All-optically labeled Packets using ASK/DPSK Orthogonal Modulation".

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vrazel et al. in view of United States Patent Application Publication No. 2002/0071152 of Blumenthal published on June 13, 2002.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is

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better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

**Objection to the Drawing**

The drawings were objected to under 37 C.F.R. 1.83(a) for failing to show every feature of the invention as recited in the claims. In particular, the label processor of claim 9 was indicated to not be shown in the drawings. Claim 9 has been amended to remove the term label processor and to simply recite means adapted to provide label insertion, label removal and/or label reading, for which there is adequate support in the drawings, e.g., in FIG. 1 and FIG. 6.

**Objection to the Specification**

The specification was objected to because the first word of paragraph 19 recited "T" rather than "It". Applicants have amended paragraph 19 to recite "It" rather than "T".

**Rejection Under 35 U.S.C. 112, First Paragraph**

Claims 9 and 16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the invention at the time the application was filed.

Claim 9 has been amended as indicated hereinabove, and such amendment should also avoid this ground of rejection.

Claim 16 has been canceled, rendering its rejection moot.

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**Double Patenting Rejection**

Claims 1, 2, 5-7, 10, 11, and 17 are provisionally rejected under the Judicially created doctrine of double patenting as being unpatentable over claims 1, 2, 8, 9, 13, 15, and 16, respectively of copending United States Patent Application Serial No. 10/673,993. Since a double patenting rejection depends on the claims of the application, until applicants have claims that are allowable but for the double patenting rejection, applicants cannot evaluate the correctness of any suggested double patenting rejection. As such, applicants also cannot determine any arguments that might be put forth against the suggested double patenting rejection. Therefore, as this double patenting rejection is premature, applicants will address such a ground of rejection once all other grounds of rejection are overcome.

**Rejection Under 35 U.S.C. 103(a)**

Claims 1-3, 5-7, 9-14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication No. 2003/0198478 of Vrazel et al. published on October 23, 2003.

This ground of rejection is avoided for the following reasons.

Applicant has amended each of the independent claims to indicate that the payload is at a higher rate than the label. This is not taught by Vrazel et al., as admitted by the Office Action on page 5 in regard to claims 3 and 14. However, the Office Action assumes that using different speeds for the payload and the label would have been obvious to one of ordinary skill in the art. This assumption is erroneous.

Vrazel et al. is not a labeling arrangement. Rather, Vrazel et al. teaches a technique to double the data throughput. To achieve such a doubling of throughput, each of the information signals in Vrazel et al., i.e., D1 and D2, must be at the same speed, i.e., data rate. Furthermore, the two data signals in Vrazel et al. must be synchronized, or there will be problems. If one were to change the data rates in Vrazel et al., so that one was slower than the other, the system would not work, and hence doing so would destroy the purpose of the Vrazel et al. arrangement. Therefore, contrary to the suggestion by the Office Action, one of ordinary skill in the art would not change the Vrazel et al. arrangement to have one data signal slower than the other. Therefore, Vrazel et al. does

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not teach or suggest applicants' independent claims as amended, and so applicants' amended independent claims are allowable over Vrazel et al.

Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vrazel et al. in view of the Chi et al. article entitled "Transmission Performance of All-optically labeled Packets using ASK/DPSK Orthogonal Modulation". Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vrazel et al. in view of United States Patent Application Publication No. 2002/0071152 of Blumenthal published on June 13, 2002.

Each of these grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 103 given Vrazel et al. Since the rejection under 35 U.S.C. 103 given Vrazel et al. has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that any of the other references cures the deficiency of the rejection based on Vrazel et al. explained hereinabove, and so the independent claims remain not obvious, these grounds of rejection cannot be maintained.

Therefore, applicants' claims are allowable over the cited references, individually or in combination, under 35 U.S.C. 103(a).

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**Conclusion**

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, he is invited to call applicant's attorney so that arrangements may be made to discuss and resolve any such issues.

In the event that an extension of time is required for this amendment to be considered timely, and a petition therefor does not otherwise accompany this amendment, any necessary extension of time is hereby petitioned for, and the Commissioner is authorized to charge the appropriate cost of such petition to the **Lucent Technologies Deposit Account No. 12-2325**.

Respectfully,

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